

## **IC 32-30-6**

### **Chapter 6. Nuisance Actions**

#### **IC 32-30-6-1**

##### **"Agricultural operation" defined**

Sec. 1. As used in this chapter, "agricultural operation" includes any facility used for the production of crops, livestock, poultry, livestock products, poultry products, or horticultural products or for growing timber.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-6-2**

##### **"Industrial operation" defined**

Sec. 2. As added used in this chapter, "industrial operation" includes any facility used for the:

- (1) manufacture of a product from other products;
- (2) transformation of a material from one (1) form to another;
- (3) mining of a material and related mine activities; or
- (4) storage or disposition of a product or material.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-6-3**

##### **"Locality" defined**

Sec. 3. As used in this chapter, "locality":

- (1) for purposes of section 9 of this chapter, means the specific area of land upon which an:

- (A) agricultural operation; or
- (B) industrial operation;

is conducted; and

- (2) for purposes of section 10 of this chapter, means the following:

- (A) The specific area of land upon which a public use airport operation is conducted.

- (B) The airport imaginary surfaces as described in IC 8-21-10-8.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-6-4**

##### **"Public use airport operation" defined**

Sec. 4. As used in this chapter, "public use airport operation" includes any facility used as a public use airport for the landing, take off, storage, or repair of aircraft.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-6-5**

##### **"Vicinity of the locality" defined**

Sec. 5. As used in this chapter, "vicinity of the locality" means the following:

- (1) Three (3) miles from the locality (as defined in section 3(2) of this chapter) of a public use airport operation that serves

regularly scheduled air carrier or military turbojet aircraft.

(2) One and one-half (1.5) miles from the locality of a public use airport operation that does not serve regularly scheduled air carrier or military turbojet aircraft.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-6-6**

##### **Nuisance described and considered subject to an action**

Sec. 6. Whatever is:

- (1) injurious to health;
- (2) indecent;
- (3) offensive to the senses; or
- (4) an obstruction to the free use of property;

so as essentially to interfere with the comfortable enjoyment of life or property, is a nuisance, and the subject of an action.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-6-7**

##### **Nuisance actions; plaintiffs**

Sec. 7. (a) An action to abate or enjoin a nuisance may be brought by any person whose:

- (1) property is injuriously affected; or
- (2) personal enjoyment is lessened;

by the nuisance.

(b) A civil action to abate or enjoin a nuisance may also be brought by:

- (1) an attorney representing the county in which a nuisance exists; or
- (2) the attorney of any city or town in which a nuisance exists.

(c) A county, city, or town that brings a successful action under this section (or IC 34-1-52-2 or IC 34-19-1-2 before their repeal) to abate or enjoin a nuisance caused by the unlawful dumping of solid waste is entitled to recover reasonable attorney's fees incurred in bringing the action.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-6-8**

##### **Nuisance action; remedies**

Sec. 8. If a proper case is made, the nuisance may be enjoined or abated and damages recovered for the nuisance.

*As added by P.L.2-2002, SEC.15.*

#### **IC 32-30-6-9**

##### **Agricultural and industrial operations; findings; continuity of operations; circumstances in which nuisance does not exist**

Sec. 9. (a) This section does not apply if a nuisance results from the negligent operation of an agricultural or industrial operation or its appurtenances.

(b) The general assembly declares that it is the policy of the state to conserve, protect, and encourage the development and

improvement of its agricultural land for the production of food and other agricultural products. The general assembly finds that when nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operations, and many persons may be discouraged from making investments in farm improvements. It is the purpose of this section to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance.

(c) For purposes of this section, the continuity of an agricultural or industrial operation shall be considered to have been interrupted when the operation has been discontinued for more than one (1) year.

(d) An agricultural or industrial operation or any of its appurtenances is not and does not become a nuisance, private or public, by any changed conditions in the vicinity of the locality after the agricultural or industrial operation, as the case may be, has been in operation continuously on the locality for more than one (1) year if:

- (1) there is no significant change in the hours of operation;
- (2) there is no significant change in the type of operation; and
- (3) the operation would not have been a nuisance at the time the agricultural or industrial operation began on that locality.

*As added by P.L.2-2002, SEC.15.*

### **IC 32-30-6-10**

#### **Public use airport operation; purpose; circumstances in which nuisance does not exist; negligent operations**

Sec. 10. (a) This section does not apply if a nuisance results from the negligent operation of a public use airport operation or the operation's appurtenances.

(b) It is the purpose of this section to limit the circumstances under which a public use airport operation may be a nuisance in order to reduce the potential for the state to lose the benefits to the state's air transportation system that are provided by public use airports.

(c) A public use airport operation or any of the operation's appurtenances may not become a private or public nuisance by any changed condition in the vicinity of the locality that occurs after the public use airport operation operates continuously on the locality for more than one (1) year if the following conditions are met:

- (1) The public use airport operation was not a nuisance at the time when the operation began operating at that locality.
- (2) The public use airport operation is operated in accordance with the rules of the Indiana department of transportation, aeronautics section.
- (3) There is no significant change in the hours of operation of the public use airport operation.

*As added by P.L.2-2002, SEC.15.*